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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,118	10/25/2001	Mark R. Jolly	IR-2908(EV)	5687

7590

03/26/2003

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EXAMINER

BUTLER, DOUGLAS C

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



10/037, 11A

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EXAMINER

ART UNIT

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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-36 are pending in the application.
Of the above, claims 4-5, 8-10, 13-36 are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☒ Claims 1-3, 11-12 are allowed.
4. ☒ Claims 6-7 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

PART III

1. An action on the merits of claims 1-3, 6-7 and 11-12 considered readable on Species A (Fig. 1) is included in this office action with claims 4-5, 8-10, 13-36 withdrawn from consideration. 37 C.F.R. 1.142(b). Election was made traverse. The species are considered patentably distinct as claimed. The requirement is deemed consistent with current office policy and is made FINAL.

2. All submitted prior art has been considered.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by submitted Eddens (4350913).

Fig. 1 of Eddens discloses, re claim 6, rotor 48, shaft 66, controllable material 46 with a “first” chamber and magnetic field generator 32, 14.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eddens (4350913) in view of Raymond et al (4811823).

The principal reference to Eddens discloses the invention substantially as claimed. However, the principal reference to Eddens does not disclose the feature of claim 7 as to the electromagnetic coil be side mounted relative to the rotor.

The secondary reference to Raymond et al teaches mounting coils 60 to the side of the rotor 45 in Fig. 3 thereof.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the principal reference to Eddens to side mount the electromagnetic coil or coils as taught by Raymond et al since such modification involves relocating the coil position to an equivalent position. The modification involves the rearranging of the location of parts considered within the level of skill in an artisan in the art. In re Japikse, 860 USPQ 70. See MPEP 2144.04 under the heading "Rearrangement of Parts".

8. Claims 1-3, 11-12 are allowed. It appears to the examiner that inclusion of the "electronics" feature into claim 6 would make it allowable along with its dependent claim. The examiner has interpreted the "means for controlling... chamber" of claim 1, clause (f) and the "electronics" of claims 2, 11 consistent with applicants' specification.

9. Note electronics 70, 74 of Agnihotri et al (6152272) inside the chamber of the brake.

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10. Fig. 28 of Sandrin et al (6202806) discloses a rotor 28 mounted on the end of a shaft 310. Rabinow (2575360) discloses a rotor 10 at the end of a shaft 1.

11. Hendershot et al (3680671), Hendershot (3620335) and Hendershot (3672476) are similar to Eddens.

Applicant should note that, pursuant to current PTO policy, cumulative rejections are to be avoided as per instructions to the examiner set forth in MPEP 706.02.

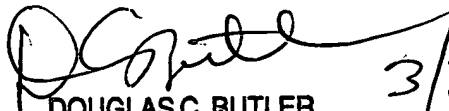
12. Note Fig. 1b of Jolly et al (6302249).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Butler whose telephone number is (703) 308-2575. The examiner can normally be reached on Monday to Friday from 5:30 a.m. to 2 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Lavinder, can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Butler/kl
March 19, 2003


DOUGLAS C. BUTLER
PRIMARY EXAMINER
3/20/03
AV3683